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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIAFILE = MARSHALL
LIBRARYJAY PETERZELL,
1619 S Street, N.W.
Washington, D.C. 20009
(202) 483-0226

Plaintiff,

v.

Civil Action No. _____

LINCOLN FAURER,
Director
National Security Agency
Fort George G. Meade, Maryland
20755

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
TO STOP DEFENDANT AND HIS AGENTS FROM INTERFERING WITH PUBLIC
ACCESS TO INFORMATION AT A LIBRARY

1. This suit seeks (1) a declaration that defendant and his agents have no authority to interfere with the public's access to information which for several years has been publicly available at a library and (2) an injunction restraining defendant and his agents from further efforts to interfere with the public's access to such information.

2. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1331.

3. Venue is laid in this Court pursuant to 28 U.S.C. § 1391(e).

4. Plaintiff is a research associate with the Center for National Security Studies, which is jointly sponsored by the American Civil Liberties Union Foundation and the Fund for Peace.

5. Defendant is the Director of the National Security Agency (NSA). He is sued only in his official capacity for

declaratory and injunctive relief.

6. This controversy arises over the issue of public access to the papers of William F. Friedman.

7. Friedman was one of the leading figures in American cryptology from the time of World War I until his retirement from NSA in the mid-1950's.

8. At some point during the 1960's, Friedman made a gift of his collection of letters, personal papers, and government documents to the George C. Marshall Foundation, which maintains a library open to the public on the campus of the Virginia Military Institute in Lexington, Virginia.

9. Friedman intended that his collection should be available to scholars, researchers, and the public.

10. After Friedman's death in November 1969, his collection was shipped to the Marshall Library.

11. At the request of the Friedman's wife, the collection remained closed until Friedman's biographer, Ronald Clark, completed his biography of Friedman.

12. Before Clark was permitted access to the Friedman collection, NSA reviewed the entire collection and directed the Marshall Library to place certain documents in a secured vault where they would remain restricted from public access.

13. The material which NSA withdrew from the publicly available collection fell into two categories: classified material and unclassified material.

DRAFT

-3-

14. Following NSA's withdrawal of certain documents and the completion of Clark's biography of Friedman, the remaining portions of the collection were opened to the public in 1977 or 1978.

15. In 1979, James Bamford, a researcher who was writing a history of NSA, requested the Marshall Library to open the previously withdrawn but unclassified materials in the Friedman collection. In September 1979, the library opened these materials to Bamford.

16. In October 1980, three officials from NSA -- Wallace Winkler, David Tisdale, and Russell Fisher -- visited the Marshall Library and reviewed the open portions of the Friedman collection.

The NSA officials then directed the library to withdraw some of the documents which had been made available to Bamford.

17. In October 1981, the same three NSA officials again visited the Marshall Library, reviewed the Friedman collection, [and directed the library to remove additional items from the open portion.]

18. In April 1983, following publication of Bamford's history of NSA, The Puzzle Palace, two NSA officials, Michael Levin and Russell Fisher, again visited the Marshall Library and directed the library to remove additional items from the open collection, including items which Bamford had referenced in his book.

19. On each occasion when NSA officials have directed the removal of documents from the open collection, they have classified some of the withdrawn documents and left some of the withdrawn documents unclassified.

20. On May 31 and June 1, 1983, plaintiff Peterzell visited the Marshall Library and reviewed the open portions of the Friedman collection.

21. Peterzell found that documents which have been withdrawn from the collection have been replaced by a "withdrawal notice." These notices identify the withdrawn document and indicate whether it has been withdrawn because it is classified or for other reasons.

22. Peterzell learned from library officials and from the withdrawal notices that the majority of the withdrawn items have been withdrawn for "other reasons" than classification.

~~23. Library officials told Peterzell that they are bound~~
by NSA's directions with respect to the documents which had been withdrawn from the public collection and that Peterzell cannot have access to the withdrawn items unless NSA consents to making them available to the public.

24. Peterzell seeks access to the withdrawn documents that would be available to him and other members of the public but for the insistence of NSA that these documents be withdrawn from the public collection.

25. NSA lacks legal authority to direct a private library to withdraw unclassified documents from public access.

26. NSA's direction to the Marshall Library to remove unclassified documents from public access is an unwarranted interference with the First Amendment rights of plaintiff and other members of the public who seek access to such documents in the Friedman collection.

27. NSA lacks legal authority to classify documents that have been available to the public and to direct a private library to withdraw such documents from public access.

28. NSA's classification of documents which have been available to the public and the Agency's direction to the Marshall Library to remove such documents from public access are an unwarranted interference with the First Amendment rights of plaintiff and other members of the public who seek access to such documents in the Friedman collection.

29. NSA's insistence that the Marshall Library remove from public access documents which previously have been available to the public is causing irreparable harm to Peterzell and other members of the public who seek access to such documents in the Friedman collection.

30. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff prays for the following relief from this Court:

1. A declaration that NSA lacks legal authority to direct a private library to withdraw unclassified documents from public access.

2. A declaration that NSA's direction to the Marshall Library to remove unclassified documents from public access is an unwarranted interference with the First Amendment rights of plaintiff and other members of the public who seek access to such documents in the Friedman collection.

3. A declaration that NSA lacks legal authority to classify documents that have been available to the public and to direct a private library to withdraw such documents from public access.

-6-

4. A declaration that NSA's classification of documents which have been available to the public and the Agency's direction to the Marshall Library to remove such documents from public access are an unwarranted interference with the First Amendment rights of plaintiff and other members of the public who seek access to such documents in the Friedman collection.

5. An injunction restraining defendant and his agents from continuing to insist that the Marshall Library withdraw from public access documents which previously have been available to the public.

6. Such other relief as the court deems to be just and appropriate.